

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:06-CR-61

v.

HON. ROBERT HOLMES BELL

JAMES ARTHUR DANIEL,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #71). Based on a review of defendant's motion, the Sentence Modification Report, submissions by counsel on behalf of the defendant and the government, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on September 21, 2006, to 102 months custody following his conviction for Possession with Intent to Distribute More than Five Grams of Cocaine Base and Felon in Possession of a Firearm. The sentence was at the lower end of an advisory guideline range of 97 to 121 months. Defendant's amended advisory guideline range is 78 to 97 months.

When considering whether a reduction of sentence is warranted, the Court considers

§3553(a) factors. 18 U.S.C. § 3582(c)(2).

The nature and circumstances of this offense involve a person who, when arrested, was in possession of a loaded, stolen, 9 millimeter handgun, cocaine, marijuana, and \$3,000.00 in cash. The defendant's history includes seven adult convictions, as well as alcohol abuse and marijuana addiction. A sentence of 102 months will provide defendant with a just punishment, but it will also afford him needed educational and correctional treatment to assist him in re-entering society with the necessary tools to live as a law abiding and productive citizen. Therefore, the original sentence of 102 months is reasonable, irrespective of the crack cocaine amendment.

Accordingly, the defendant's motion to reduce sentence (docket #71) is respectfully **DENIED.**

Dated: November 6, 2009

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE